



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN KOBECK, on behalf of himself, :
FLSA Collective Plaintiffs and Class Members, :
Plaintiff, :

v. :

ARMONK BRISTALL LLC, et al., :
Defendants. :

ORDER

16 CV 8770 (VB)

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Opt-in plaintiff Nancy Nshiewat has filed a notice that she has accepted defendants' Offer of Judgment pursuant to Rule 68(a). (Doc. #71).

As noted in its prior Order regarding opt-in plaintiff Leslie Schatzer (Doc. #65), the Court shares the concerns expressed by Chief Judge McMahon about litigants using Rule 68 Offer of Judgment procedures to enter settlements in FLSA cases without obtaining court approval pursuant to the Second Circuit's decision in Cheeks v. Freeport Pancake House, Inc., 796 F.3d 199 (2d Cir. 2015). See Baba v. Beverly Hills Cemetery Corp. Inc., 2016 WL 2903597 (S.D.N.Y. May 9, 2016); see also Arzeno v. Big B World, Inc., 317 F.R.D. 440 (S.D.N.Y. 2016); Pest v. Express Contracting Corp., 219 F. Supp. 3d 360 (E.D.N.Y. 2016); Butten v. Zaki Service Station Inc., 15 CV 4362 (ERK) (PK) (E.D.N.Y. July 28, 2016) (report and recommendation adopted Aug. 23, 2016); Barnhill v. Fred Stark Estate, 2015 WL 5680145 (E.D.N.Y. Sept. 24, 2015). Although these cases are not binding authority, the Court is persuaded by their reasoning that Rule 68's mandatory language compels the Clerk of the Court to enter judgment pursuant to an accepted Offer of Judgment.

The Clerk is directed enter judgment in accordance with defendants' Offer of Judgment and opt-in plaintiff Nancy Nshiewat's acceptance thereof. (Doc. #71).

Dated: September 21, 2017
White Plains, NY

SO ORDERED:

Vincent L. Briccetti
United States District Judge